

PATENT  
ATTORNEY DOCKET NO: 50125/008001

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled MYOCARDIUM- AND SKELETAL-MUSCLE SPECIFIC NUCLEIC ACID, ITS PREPARATION AND USE, the specification of which

is attached hereto.  
 was filed on December 10, 1999 as Application Serial No. 09/445,362  
and was amended on \_\_\_\_\_.  
 was described and claimed in PCT International Application No. \_\_\_\_\_  
filed on \_\_\_\_\_ and as amended under PCT Article 19 on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information I know to be material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56(a).

**FOREIGN PRIORITY RIGHTS:** I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

| Country | Serial Number  | Filing Date   | Priority Claimed? |
|---------|----------------|---------------|-------------------|
| Germany | 19725186.2     | June 13, 1997 | Yes               |
| PCT     | PCT/EP98/03584 | June 15, 1998 | Yes               |

**PROVISIONAL PRIORITY RIGHTS:** I hereby claim priority benefits under Title 35, United States Code, §119(e) and §120 of any United States provisional patent application(s) listed below filed by an inventor or inventors on the same subject matter as the present application and having a filing date before that of the application(s) of which priority is claimed:

| Serial Number | Filing Date | Status |
|---------------|-------------|--------|
|               |             |        |

## COMBINED DECLARATION AND POWER OF ATTORNEY

**NON-PROVISIONAL PRIORITY RIGHTS:** I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information I know to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

| Serial Number | Filing Date | Status |
|---------------|-------------|--------|
|               |             |        |
|               |             |        |

I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Paul T. Clark, Reg. No. 30,162, Karen L. Elbing, Ph.D. Reg. No. 35,238, Kristina Bieker-Brady, Ph.D. Reg. No. 39,109, Susan M. Michaud, Ph.D. Reg. No. 42,885, Mary Rose Scozzafava, Ph.D., Reg. No. 36,268, James D. DeCamp, Ph.D., Reg. No. 43,580.

Address all telephone calls to: Karen L. Elbing, Ph.D. at 617/428-0200.

Address all correspondence to: Karen L. Elbing, Ph.D. at Clark & Elbing LLP, 176 Federal Street, Boston, MA 02110.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

| Full Name<br>(First, Middle, Last)       | Residence Address<br>(City, State, Country) | Post Office Address<br>(Street, City, State, Country)            | Citizenship             |
|--|---|--|-------------------------|
| <u>Marion Elke Hofmann -<br/>Epmus</u>   | Krailling, Germany                          | Albrecht-Dürer-Str. 16,<br>82152 Krailling <i>DEX</i><br>GERMANY | Germany                 |
| Signature: <i>M. Hofmann - Epmus - s</i> |   |  | Date: <u>27.03.2000</u> |

**COMBINED DECLARATION AND POWER OF ATTORNEY**

| Full Name<br>(First, Middle, Last) | Residence Address<br>(City, State, Country) | Post Office Address<br>(Street, City, State, Country)       | Citizenship       |
|------------------------------------|---|---|-------------------|
| Horst Domdey                       | Neuried, Germany                            | Fasanenweg 6,<br>82061 <u>Neuried</u> <i>DBX</i><br>GERMANY | Germany           |
| Signature:                         | <i>Horst Domdey</i>                         |   | Date: 14. 4. 2000 |

| Full Name<br>(First, Middle, Last) | Residence Address<br>(City, State, Country) | Post Office Address<br>(Street, City, State, Country) | Citizenship |
|------------------------------------|---|---|-------------|
| Thomas Henkel                      | München, Germany                            | Freienfelsstr. 20A,<br>81249 München<br>GERMANY       | Germany     |
| Signature:                         |   |   | Date:       |

**COMBINED DECLARATION AND POWER OF ATTORNEY**

| Full Name<br>(First, Middle, Last) | Residence Address<br>(City, State, Country) | Post Office Address<br>(Street, City, State, Country) | Citizenship |
|------------------------------------|---|---|-------------|
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| Signature:                         |   |   | Date:       |

| Full Name<br>(First, Middle, Last) | Residence Address<br>(City, State, Country) | Post Office Address<br>(Street, City, State, Country)      | Citizenship  |
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| <u>Thomas Henkel</u>               | München, Germany                            | Freienfelsstr. 20A,<br>81249 München <i>DBX</i><br>GERMANY | Germany      |
| Signature: <i>Thomas Henkel</i>    |   |  | Date: 1/9/00 |

Applicant or Patentee : Marion Elke Hofmann et al.  
Serial or Patent No. : 09/445,362  
Filed or Issued : December 10, 1999  
Title : MYOCARDIUM- AND SKELETAL MUSCLE-SPECIFIC NUCLEIC ACID, ITS PREPARATION AND USE

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

the owner of the small business concern identified below:  
 an official of the small business concern empowered to act on behalf of the concern identified below:

**Name of Small Business Concern:** MediGene Aktiengesellschaft

**Address of Small Business Concern:** Lochhamer Straße 11, 82152 Martinsried/München, Germany

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled MYOCARDIUM- AND SKELETAL MUSCLE-SPECIFIC NUCLEIC ACID, ITS PREPARATION AND USE by inventors Marion Elke Hofmann, Horst Domdey, and Thomas Henkel, described in

the specification filed herewith.  
 application serial no. 09/445,362, filed December 10, 1999.  
 patent no. [\*\*PATENT NUMBER\*\*], issued [\*\*ISSUE DATE\*\*].

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e). NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

**Assignee Name:**

**Assignee Address:**

INDIVIDUAL  SMALL BUSINESS CONCERN  NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent on which this verified statement is directed.

**Name:** Dr. Peter Heinrich

**Title:** Chief Executive Officer

**Address:** MediGene Aktiengesellschaft, Lochhamer Straße 11, 82152 Martinsried/München, Germany

**Signature:** Dr. Peter Heinrich

**Date:** March 23, 2000